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In re Application of  
IONESCU, Adrian F.  
U.S. Application No.: 10/595,415  
PCT No.: PCT/US2004/034097  
Int. Filing Date: 18 October 2004  
Priority Date: 17 October 2003  
Attorney Docket No.: 22148-00004-US2  
For: BALLAST PROTECTING DEVICE

**DECISION**

This is a decision on the response filed 07 August 2009 which is treated under 37 CFR 1.42.

**BACKGROUND**

On 08 June 2009, a decision dismissing applicant's petition pursuant to 37 CFR 1.42 and/or 1.47 was mailed. Applicant was given two months to respond with extensions of time available.

On 07 August 2009, applicant filed a response which was accompanied by, *inter alia*, a declaration executed by the sole heir of Adrian F. Ionescu.

**DISCUSSION**

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Applicant submitted a declaration executed by Andrei E. Ionescu, the heir of the deceased sole inventor, Adrian F. Ionescu. The declaration provides the citizenship, residence and address of the heir and lists the name of the deceased inventor.

However, the citizenship for the deceased inventor is not recorded on the declaration pursuant to 37 CFR 1.497(a)(3). As such, the declaration does not contain the facts which the inventor would have been required to state. Therefore, the declaration fails to satisfy 37 CFR 1.497(b)(2), and is not accepted.

10/595,415

**CONCLUSION**

For the reason listed above, applicant's petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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